

A silver metal spiral binding is visible on the left side of the notebook cover, consisting of a series of loops that hold the pages together.

# The Continuing Challenge Haz-Mat Emergencies

Reporting Hazardous Materials  
Releases

By  
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The image shows the cover of a spiral-bound notebook. The cover is a light beige or tan color with a fine, woven texture. A silver-colored metal spiral binding is visible along the left edge. The text is centered on the cover in a black, serif font.

# Reporting Hazardous Materials Releases

Federal & California Reporting  
Requirements

# Reporting Hazardous Materials Releases

- **General Background:**

- Covers release reporting to local, state and federal governmental agencies
- Covers notice obligations of owners and lessees' of non residential real property



# Reporting Hazardous Materials Releases

- **General Background:**

- Does not cover routine release-reporting that are part of ongoing operations requiring routine or recurring notifications or warnings.
  - For example won't cover Proposition 65, the Occupational Safety and Health Act, Hazard Communications Standard or the Asbestos notification requirements
- Does not cover release-reporting imposed by fire departments, city or county health, or regional sanitation districts

# Reporting Hazardous Materials Releases

- **General Background:**
  - Does not cover release-reporting requirements imposed by permits that are issued for particular operations such as the National Pollution Discharge Elimination System (NPDES) pursuant to federal Clean Water Act and treatment, storage, or disposal facility (TSDF) or Waste Disposal Act are also not discussed

# Reporting Hazardous Materials Releases

- **General Considerations:**

- Need to know the hazardous material and wastes in your inventory
- Need to have a working knowledge of the laws and regulations governing the release of each of those chemicals
- Understand the definitions of hazardous materials, release and “threatened release”
- Media into which a material is released and or location

# Reporting Hazardous Materials Releases

- **General Considerations:**
  - Does the release pose a significant present or potential hazard to human health and safety, property or the environment?

# Reporting Hazardous Materials Releases

## **Federal Reporting Requirements:**

- CERCLA
- Emergency Planning and Community Right to Know
- Discharge Reporting - Clean Water Act
- Incident Reporting - Hazardous Materials Transportation Act
- Emergency Incident Reporting - Toxic Substance Control Act



# Reporting Hazardous Materials Releases

## **Federal Reporting Requirements (cont):**

- PCB Spill Notification - Toxic Substance Control Act
- Federal Reporting Requirements - Releases from Underground Storage Tanks

# Reporting Hazardous Materials Releases

## **California Reporting Requirements:**

- Release Reporting - Business Plan Law
- RCRA Incident Reporting - Hazardous Waste Facilities under California Regulations
- Disposal Notification - Hazardous Waste Control Law
- Discharge Notification - Water Code Sections 13271-13271

# Reporting Hazardous Materials Releases

## **California Reporting Requirements (cont):**

- Release Notification of Owners and Lessees of Real Property - Health and Safety Code Section 25359.7
- Release Reporting - Underground Storage Tanks under California Law
- Release Reporting - California Vehicle Code

# Reporting Hazardous Materials Releases

## **California Reporting Requirements (cont):**

- Waste, Sewage, and Pollutant Discharge  
Notification - Water Code Sections 13260 & 13376  
and Health and Safety Code Section 5411.5
- Oil Spills to Marine Waters
- Releases of Hazardous Substances to the  
Environment

# Reporting Hazardous Materials Releases

## **California Reporting Requirements (cont):**

- Proposition 65 & Carcinogenic Chemicals
- Cal OSHA Hazard Communication Standard
- Asbestos Notification
- Other Occupational Health and Safety Requirements
- Release Reporting Requirements for Permits issued under the National Pollution Discharge Elimination System (NPDES) pursuant to the Federal Clean Water Act

# Reporting Hazardous Materials Releases

## **California Reporting Requirements (cont):**

- Reporting Required for Treatment, Storage, Disposal Facility Permits (TSDF) issued under the Solid Waste Disposal Act
- Other Release Reporting Requirements imposed under local/regional agency authorities



# Reporting Hazardous Materials Releases

## Definitions:

- **What is a “Hazardous Material”?**
  - “Any material that because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment” ( Health and Safety Code 25501 (k))

# Reporting Hazardous Materials Releases

## Definitions:

- **What is a “Hazardous Material”?**
  - “Hazardous Materials” include but are not limited to, hazardous substances, hazardous waste, and any material which a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment

# Reporting Hazardous Materials Releases

## Definitions:

- **What is a “Hazardous Substance”?**
  - The manufacturer or producer is required to prepare a MSDS for the substance or product pursuant to the Hazardous Substances Information and Training Act (Chapter 2.5 of Part I of Division 5 of the Labor Code) or pursuant to any applicable federal law or regulation
  - Hazardous Substance means any substance or chemical product for which one of the following:

# Reporting Hazardous Materials Releases

## Definitions:

- **What is a “Hazardous Substance”?**
  - The substance is listed as a radioactive material in Appendix B of Chapter 1 of Title 10 of the Code of Federal Regulations, maintained and updated by the Nuclear Regulatory Commission
  - The substance listed pursuant to Title 49 of the Code of Federal Regulation
  - The material listed is subdivision (b) of Section 6382 of the Labor Code

# Reporting Hazardous Materials Releases

## Definitions:

- **What is a “Hazardous Waste”?**
  - “Hazardous Waste” means hazardous waste, as defined by Sections 25115, 25117, and 25316

# Reporting Hazardous Materials Releases

## **Definitions:**

- **What is a Release?**
  - “Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, unless permitted or authorized by a regulatory agency” (Health and Safety Code 25501(o))



# Reporting Hazardous Materials Releases

## Definitions:

- **What is a “Threatened Release?”**
  - “Threatened release” means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or the environment

# Reporting Hazardous Materials Releases

## **What Hazardous Material Releases Require Notification?**

- All significant spills, releases, or potential releases of hazardous materials must be IMMEDIATELY REPORTED

# Reporting Hazardous Materials Releases

## **Released Substance:**

- All significant releases or potential releases of a hazardous material, including oil require emergency notification to government agencies
- The law specifies who must notify, what information is needed, which government agencies must be notified, when they must be notified and the release quantity or basis for the report

# Reporting Hazardous Materials Releases

## **Released Substance:**

- Reporting obligations apply to particular materials or to materials that have specific characteristics
  - With specified materials there is generally a list of those hazardous materials subject to notification requirements
    - CERCLA has a list of “hazardous substances” subject to reporting
    - HMTA has a list of “hazardous materials” subject to reporting requirements

# Reporting Hazardous Materials Releases

## **Released Substance:**

- To determine if a notification requirement exists under one of these Acts the responsible party must first determine if the released material is listed

# Reporting Hazardous Materials Releases

## **Released Substance:**

- When the reporting obligation depends of whether a material has specified characteristics, or whether it presents a “special risk,” the law or regulation generally provides criteria that must be met for a reporting requirement to arise



# Reporting Hazardous Materials Releases

## **Reportable Quantity:**

- In most cases, only releases exceeding a specified amount (Reportable Quantity or RQ) must be reported
  - Once it is determined that a material or substance is subject to regulation it must be determined whether the amount exceeds any established RQ

# Reporting Hazardous Materials Releases

## **Reportable Quantity:**

- Determining how much of a material or substance has been released may require detailed calculation
  - Technical Assistance may be necessary
    - If a release consists of a mixture of several chemicals, not all of which are subject to regulation, the mixture must be analyzed to determine how much of the regulated was released and whether it exceeded the RQ for that chemical

# Reporting Hazardous Materials Releases

## **Reportable Quantity:**

- In some instances there may be a “Qualitative RQ”
  - For example, a release may only be reportable if a “significant amount” is released
  - In those cases it may require people with technical backgrounds to make the determination

# Reporting Hazardous Materials Releases

## **Nature of the Event:**

- Whether or not a release is reportable to a regulatory agency will depend on nature of the event
  - One reporting requirement may apply to spills, while another may apply to discharges or disposals

# Reporting Hazardous Materials Releases

## **Nature of the Event:**

- A careful review of the definition of terms such as “discharge”, “disposal” or “release” must be undertaken to determine whether the event is covered by a reporting requirement under review
- In many cases these definitions are extremely broad

# Reporting Hazardous Materials Releases

## **Nature of the Event:**

- Similarly, a particular reporting obligation may only apply to a particular medium
  - For example the provisions of the Federal Clean Water Act apply to releases to navigable waters or their adjoining shorelines but not to releases to groundwater



# Reporting Hazardous Materials Releases

## **Nature of the Event:**

- In addition a particular reporting provision may also depend on the source of the release or the nature of the activity that generated the release
- There are provisions that specifically apply to underground storage tanks, treatment, storage, and disposal facilities and releases occurring during transportation

# Reporting Hazardous Materials Releases

## **Nature of the Event:**

- Generally, notification is required regarding significant releases from: facilities, vehicles, vessels, pipelines and railroads

# Reporting Hazardous Materials Releases

## **Nature of the Event-Exception**

- The immediate reporting shall not be required if there is a reasonable belief that the release or threatened release poses no significant present or potential hazard to human health and safety, property or the environment.

# Reporting Hazardous Materials Releases

## **Who Must Report:**

- The responsible party must carefully review the reporting provisions of each statute or regulation to determine if they fall within the definitions of these terms

# Reporting Hazardous Materials Releases

## **Who Must Report:**

- Most reporting requirements require the “Owner or Operator” the person in charge of the facility where the release occurs, or the “discharger” to file the report
- Requirements for immediate notification of all “significant spills” or “releases” covers owners, operators, persons in charge, and employers

# Reporting Hazardous Materials Releases

## **Who Must Report:**

- Under CERCLA the “person in charge” is obligated to report the release
- Generally, most regulations do not appear to impose reporting obligations on passive owners who merely discover prior releases on their property
- However, some provisions may be construed to impose a reporting requirement on such passive landowners

# Reporting Hazardous Materials Releases

## **Who Must Report:**

- For example, it could be argued that passive landowners are obligated to report certain releases governed by the Water Code
- State Law may also require: handlers, any employees, authorized representatives, agents or designees of handlers shall upon discovery, immediately report any release or threatened release of hazardous materials (Health and Safety Code 25507)

# Reporting Hazardous Materials Releases

## **Who Must Report:**

- Federal Law requires notification for all releases that equal or exceed federal reporting quantities:
  - Owners and operators (EPCRA)
  - Person in charge to report (CERCLA)



# Reporting Hazardous Materials Releases

## **To Whom Must the Report Be Made:**

- Each statutory reporting provision requires that a release be reported to a designated person or agency
- Most federal provisions require that you report the release to the National Response Center 1-800-424-8802
- Many California provisions require that a release be reported to the Office of Emergency Services (OES) 1-800-852-7550

# Reporting Hazardous Materials Releases

## **To Whom Must the Report Be Made:**

- In some cases reports must be made to other federal, state or local agencies
- In California besides the OES, in some cases notification must be made to the Department of Toxic Substance Control or the Regional Water Quality Control Board, or local fire and administrative agencies and or CUPA's

# Reporting Hazardous Materials Releases

## **To Whom Must the Report Be Made:**

- The OES will normally notify any other agencies, that must be notified of a release
- Nevertheless, it is advisable to notify all the required agencies independently to insure that your regulatory obligations have been met

# Reporting Hazardous Materials Releases

## **Failure to Report:**

- Many reporting requirements impose significant civil and/or criminal penalties for each day that a report is not filed
- Federal and State laws provide for penalties of up to \$25,000 per day for each violation of emergency notification requirements (Civil Penalties).

# Reporting Hazardous Materials Releases

## **Failure to Report:**

- Several reporting provisions also contain use immunity provisions
- These provisions prohibit the use of the reported information in criminal prosecutions against the individual or the corporation who made the report

# Reporting Hazardous Materials Releases

## **What Information is Required:**

- State notification requirements for a spill or release include:
  - Identify of the caller
  - Location, date and time of the spill or release
  - Substance and quantity involved
  - Chemical Name (if known, it should be reported if the chemical is extremely hazardous)
  - Description of what happened

# Reporting Hazardous Materials Releases

## **What Information is Required:**

- Federal immediate verbal reporting requires additional information (CERCLA chemicals) for spills that exceed federal reporting requirements which includes:
  - Medium or media impacted by the release
  - Time and duration of the release
  - Proper precautions to take
  - Known or anticipated health risks
  - Name and phone number for more information

# Reporting Hazardous Materials Releases

## **When to Notify:**

- All significant spills or releases of hazardous material, including oil must be reported immediately
- Notification should be made by phone
- Written follow-up reports may be required



# Reporting Hazardous Materials Releases

## **Written Reports:**

- Different statutes have different time requirements and criteria for submitting written reports
- Generally after a verbal report is made to the required agencies an after action report should be provided as soon as possible

# Reporting Hazardous Materials Releases

## Written Reports:

- Agencies in California that require written reports” include:
  - OES - Section 304 After Action Report
  - DTSC - Facility Incident or Tank System Release Report
  - California Division of Oil and Gas - Oil Spill at a Fixed Facility
  - Cal/OSHA - Serious injury or harmful exposure to workers

# Reporting Hazardous Materials Releases

## Written Reports:

- Written reports are required by several statutes including:
- California Health and Safety Code 25503 (c) (9)
- California Labor Code 6409.1 (a)
- Water Code 13260, 13267
- Title 42 U.S. Code 11004
- Federal Regulations - 49 CFR, 171.16

# Reporting Hazardous Materials Releases

## **What Hazardous Material Releases Require Notification?**

- In addition all releases that result in injuries, or workers harmfully exposed, **MUST BE IMMEDIATELY REPORTED** (Cal Labor Code 6409.1 (b))

# Reporting Hazardous Materials Releases

## **What Hazardous Material Releases Require Notification?**

- Notification covers significant releases or threatened releases relating to all of the following:
- “Hazardous Materials” as defined by the California Health and Safety Code - Section 25501
- “Hazardous Substances” as listed in 40 CFR - Section 302.4
- Clean Water Act - Section 307, 311

# Reporting Hazardous Materials Releases

## **What Hazardous Material Releases Require Notification?**

- CERCLA - Section 102
- RCRA - Section 3001
- Clean Air Act - Section 112
- Toxic Substances Control Act - Section 7

# Reporting Hazardous Materials Releases

## **What Hazardous Material Releases Require Notification?**

- “Extremely Hazardous Substances” as required by Chapter 6.95 California Health and Safety Code, and EPCRA - Section 302
- Illegal releases of Hazardous Waste
- Employee exposures resulting in injuries  
California Labor Code 6409.1 (b)

# Reporting Hazardous Materials Releases

## **What Hazardous Material Releases Require Notification?**

- “Sewage” as required by the Water Code - Section 13271 (Reportable quantity is 1,000 gallons)



# Reporting Hazardous Materials Releases

## **Response Procedures: Step by Step**

- Handle the Emergency
  - First priority in the event is to insure that the proper steps are taken to control the release
  - Protect employees, public and the environment from exposure or injury

# Reporting Hazardous Materials Releases

## **Response Procedures: Step by Step**

- Handle the Emergency
  - Implement emergency procedures
  - Make immediate notification to local emergency response organizations
  - Keep records of the agencies notified and the information provided to those agencies

# Reporting Hazardous Materials Releases

## **Response Procedures: Step by Step**

- Handle the Emergency
  - As soon as time allows, complete a Release Reporting Form

# Reporting Hazardous Materials Releases

## **Response Procedures: Step by Step**

- Complete Part I of the Release Report Form
  - After required emergency steps are taken immediately determine whether there is a reporting requirement
  - Many releases must be reported immediately

# Reporting Hazardous Materials Releases

## **Response Procedures: Step by Step**

- Complete Part I of the Release Report Form
  - Completing this section will create a record of the information necessary to determine whether the release must be reported
  - Evaluate the information if Part I, consult the reference charts “Key to Text References, Authorities, and Significant Terms”

# Reporting Hazardous Materials Releases

## **Response Procedures: Step by Step**

- Complete Part I of the Release Report Form
  - Evaluate the information in Part I, consult the reference charts “Key to Text References, Authorities, and Significant Terms”
  - Key will give you an idea of the statutes and regulations that are most likely to govern any reporting obligations for the release you have

# Reporting Hazardous Materials Releases

## **Response Procedures: Step by Step**

- Complete Part I of the Release Report Form
  - Key will give you an idea of the statutes and regulations that are most likely to govern any reporting obligations for the release you have
  - Remember that a single release event may require reporting under more than one statutory or regulatory scheme

# Reporting Hazardous Materials Releases

## **Response Procedures: Step by Step**

- Report the Release
  - Once the obligation to report has been established, the person responsible for reporting the release should do so.
  - As more than one government agency will likely need to be notified it is important make sure that reports to each agency are consistent



# Reporting Hazardous Materials Releases

## **Response Procedures: Step by Step**

- Report the Release: Information Required
  - Reporting person's name and position
  - Corporation
  - Address
  - Date and time of the release
  - Location of the release
  - Chemical(s) involved

# Reporting Hazardous Materials Releases

## **Response Procedures: Step by Step**

- Report the Release: Information Required
  - Amount of chemical(s) involved
  - Remedial actions that have been taken
  - Remedial actions that are planned
  - Additional agencies that have been or are to be contacted
  - Determine if the agency you have contacted will be the “lead” agency for future communication

# Reporting Hazardous Materials Releases

## **Response Procedures: Step by Step**

- Report the Release: Information Required
  - When discussing the release with agencies determine whether that agency is going to notify any additional agencies
  - Determine if the agency you have contacted will be the “lead” agency for future communication

# Reporting Hazardous Materials Releases

## **Response Procedures: Step by Step**

- Prepare the Report
  - Record the information provided to each agency
  - Note any requests by those agencies
  - Note offers provided by the reporting person to provide additional information or to perform any studies or remedial work

# Reporting Hazardous Materials Releases

## **Response Procedures: Step by Step**

- Prepare the Report
- Record the information provided to each agency
- Note any requests by those agencies
- Note offers provided by the reporting person to provide additional information or to perform any studies or remedial work

# Reporting Hazardous Materials Releases

EMERGENCY RELEASE FOLLOW - UP NOTICE REPORTING FORM										
A	BUSINESS NAME					FACILITY EMERGENCY CONTACT & PHONE NUMBER ( ) -				
B	INCIDENT DATE		MO	DAY	YR	TIME OES NOTIFIED	(use 24 hr time)		OES CONTROL NO.	
C	INCIDENT ADDRESS LOCATION					CITY / COMMUNITY		COUNTY	ZIP	
D	CHEMICAL OR TRADE NAME (print or type)					CAS Number				
	CHECK IF CHEMICAL IS LISTED IN 40 CFR 355, APPENDIX A <input type="checkbox"/>					CHECK IF RELEASE REQUIRES NOTIFICATION UNDER 42 U.S.C. Section 9603 (a) <input type="checkbox"/>				
	PHYSICAL STATE CONTAINED		PHYSICAL STATE RELEASED		QUANTITY RELEASED					
	<input type="checkbox"/> SOLID <input type="checkbox"/> LIQUID <input type="checkbox"/> GAS		<input type="checkbox"/> SOLID <input type="checkbox"/> LIQUID <input type="checkbox"/> GAS							
E	ENVIRONMENTAL CONTAMINATION					TIME OF RELEASE		DURATION OF RELEASE		
	<input type="checkbox"/> AIR <input type="checkbox"/> WATER <input type="checkbox"/> GROUND <input type="checkbox"/> OTHER							____ DAYS ____ HOURS ____ MINUTES		
F	ACTIONS TAKEN									
G	KNOWN OR ANTICIPATED HEALTH EFFECTS (Use the comments section for addition information)									
	<input type="checkbox"/> ACUTE OR IMMEDIATE (explain) _____									
	<input type="checkbox"/> CHRONIC OR DELAYED (explain) _____									
H	<input type="checkbox"/> NOT KNOWN (explain) _____									
	ADVICE REGARDING MEDICAL ATTENTION NECESSARY FOR EXPOSED INDIVIDUALS									
I	COMMENTS (INDICATE SECTION (A - G) AND ITEM WITH COMMENTS OR ADDITIONAL INFORMATION)									
I	CERTIFICATION: I certify under penalty of law that I have personally examined and I am familiar with the information submitted and believe the submitted information is true, accurate, and complete.									
	REPORTING FACILITY REPRESENTATIVE (print or type) _____ SIGNATURE OF REPORTING FACILITY REPRESENTATIVE _____ DATE: _____									

# Reporting Hazardous Materials Releases

## **EXAMPLES**

# Reporting Hazardous Materials Releases

## **Basic Determinations:**

Step 1: Has a “release or threatened release” occurred?

Step 2: Was the release emitted to a covered location

Step 3: Is the substance released a “hazardous material”?

Step 4: Does the release pose a significant present or potential hazard to human health and safety, property, or the environment



# Reporting Hazardous Materials Releases

## **Basic Determinations:**

Step 5: Is the reporting obligation imposed on a particular person?

# Reporting Hazardous Materials Releases



# Reporting Hazardous Materials Releases





# Reporting Hazardous Materials Releases



# Reporting Hazardous Materials Releases





# Reporting Hazardous Materials Releases



# Reporting Hazardous Materials Releases





# Reporting Hazardous Materials Releases

